

LEXPORT NEWSLETTER

SEPTEMBER 2026 | WEEK 2

Dear Readers,

This weekly newsletter offers you a concise analysis of important developments, notable judgments, and noteworthy regulatory amendments and developments in the corporate and financial sectors.

This newsletter will cover updates inter alia from **Banking Laws & FEMA, Corporate Laws, Securities Laws and Capital Markets, Competition Laws, Indirect Taxes, Customs and Foreign Trade, Intellectual Property Laws, and Arbitration Laws.**

Acknowledging the significance of these updates and the need to stay informed, this newsletter provides a concise overview of the various changes brought in by our proactive regulatory authorities and the courts.

Feedback and suggestions will be much appreciated. Please feel free to write to us at mail@lexport.in.

Regards,
Team Lexport



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Indirect Tax

ITC cannot be denied solely on GSTR-3B and GSTR-2A mismatch without invoice-wise verification: GSTAT

The assessee was denied ITC for FY 2018-19 on the basis of a mismatch between ITC claimed in GSTR-3B and that reflected in GSTR-2A, resulting in a demand of Rs. 2,33,502/- along with interest and penalty. The assessee explained that the mismatch arose because ITC relating to FY 2017-18 invoices had been availed in FY 2018-19 within the period permitted under Section 16(4), and that the relevant credit was reflected in the FY 2017-18 GSTR-2A. The Tribunal held that, for the relevant transition period, GSTR-2A was a facilitation tool and not a statutory bar to availment of ITC, and that CBIC Circular No. 183/15/2022-GST required verification of such FY 2017-18 credits rather than their summary disallowance. It observed that the finding that non-reflection of invoices in FY 2018-19 GSTR-2A established non-payment of tax by suppliers was only an assumption, as no invoice-wise verification had been undertaken. The Tribunal also found that the assessee had not been granted the personal hearing mandated under Section 75(4). Accordingly, the Orders-in-Original and Appeal were set aside and the matter was remanded for de novo adjudication, with directions to verify the reconciliation invoice-wise, examine compliance with Section 16(4) and apply Circular No. 183/15/2022-GST, after granting the assessee a proper opportunity of hearing. The Tribunal clarified that it had not expressed any final view on the admissibility of the disputed ITC.

N.R. Builders v. Commissioner of Commercial Taxes, APL/2/BUR/2026, GSTAT, Division Bench, Bengaluru (Court No. III).



Soumya Shrivastava



GSTR-3B & GSTR-2A: Mismatch Alone Cannot Deny ITC



The GSTAT held that ITC cannot be denied solely on the basis of a GSTR-3B and GSTR-2A mismatch. The disputed credit must be verified invoice-wise, particularly where the difference may relate to earlier-period invoices. The Tribunal also emphasized compliance with Section 75(4), requiring a proper opportunity of personal hearing before adjudication.

Case Title: M/s. N.R. Builders v. Commissioner of Commercial Taxes
APL/2/BUR/2026 | Goods and Services Tax Appellate Tribunal (GSTAT),
Bengaluru Bench | Order dated 31 August 2026

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Indirect Tax

Third-party writ against AAAR order on GST classification not maintainable under Article 226 as advance rulings bind only the applicant and the authority: High Court of Karnataka

The petitioner, Bangalore Metro Rail Corporation Ltd. (BMRL), contracted with respondent No. 4, Bharat Earth Movers Limited (BEM), for the supply, erection, commissioning, and installation of 150 Standard Gauge Intermediate Cars, agreeing under the contract to reimburse the "applicable GST" as invoiced by BEM. BEM sought an advance ruling under Section 98 of the Central Goods and Services Tax Act, 2017 / Karnataka Goods and Services Tax Act, 2017 (CGST Act/KGST Act). The Authority for Advance Ruling (AAR) held the transaction to be a composite supply taxable as a supply of intermediate cars under Sections 8 and 12. On appeal by the Revenue under Section 100, the Karnataka Appellate Authority for Advance Ruling (AAAR), by order dated 03.09.2021 passed under Section 101, reclassified the supplies into separate goods and services taxable at varying rates of 5%, 12%, 18%, and 28%. The petitioner challenged the AAAR order under Article 226 of the Constitution of India, contending that its contractual obligation to reimburse applicable GST entailed direct adverse financial and civil consequences, thereby conferring locus standi as an aggrieved person in the absence of an alternative statutory forum. Highlighting the preliminary issue of maintainability, the Revenue and BEM argued that the petitioner was a third party to the advance ruling proceedings and lacked locus standi, as advance rulings are decisions in personam. The High Court examined Chapter XVII of the CGST Act/KGST Act, specifically Sections 97, 98, 99, 100, 101, and 103, and held that Chapter XVII constitutes a complete code for an alternate advance dispute resolution mechanism. Interpreting Section 103, the Court observed that an advance ruling is binding exclusively on the applicant and the concerned/jurisdictional officer in respect of that applicant. The Court reasoned that an advance ruling does not bind third parties, nor can a third party challenge or claim benefits under it. The general principle defining an "aggrieved person" cannot be mechanically imported into Chapter XVII. Examining the contract, the Court noted that while BMRL agreed to reimburse "applicable GST", the contract contained no stipulations fixing the classification of supplies or specific GST rates. Consequently, the AAAR ruling did not alter any pre-determined contractual tax terms or impose an additional civil or pecuniary burden beyond what was determined in accordance with law. The Court held that entertaining the writ petition would impermissibly require rewriting or amending the contract under Article 226. Dismissing the writ petition, the High Court held that a third party lacks locus standi under Article 226 to challenge an AAR/AAAR order.

Bangalore Metro Rail Corporation Ltd. v. Karnataka Appellate Authority for Advance Ruling, Bangalore Writ Petition No. 192 of 2022 (T-RES) High Court of Karnataka at Bengaluru



Soumya Shrivastava

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YOU'RE AFFECTED. BUT CAN YOU CHALLENGE AN AAAR ORDER?



The Karnataka High Court held that a third party cannot challenge an AAR/AAAR order under Article 226 merely because the ruling may have financial consequences for it. Under Section 103 of the CGST Act, an advance ruling binds only the applicant and the concerned/jurisdictional officer. Since BMRL was neither, it lacked locus standi to challenge the AAAR order.

CASE TITLE: Bangalore Metro Rail Corporation Ltd. v. Karnataka Appellate Authority for Advance Ruling, Bangalore | **Writ Petition No. 192 of 2022 (T-RES)** | High Court of Karnataka at Bengaluru

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Indirect Tax

NAC Portal introduced for transparent and uniform Customs assessment decisions

The Central Board of Indirect Taxes and Customs ("CBIC"), in furtherance of the faceless assessment framework and the constitution of National Assessment Centres ("NACs"), has developed a common digital platform, namely the National Assessment Centre (NAC) Portal, to facilitate transparent and readily accessible dissemination of NAC decisions, legal precedents, CAAR rulings, advisories and audit observations. The Circular states that the Portal is intended to promote uniformity, certainty and transparency in Customs assessment, enhance predictability and informed compliance, and reduce divergent practices and avoidable disputes. The Portal, accessible at naccustoms.gov.in, provides keyword-based search functionality and enables trade and other stakeholders to access and download relevant information and reference material. The information available includes audit objections, CAAR rulings and legal decisions; issues resolved or taken up by NACs and issues requiring policy intervention; matters relating to classification, valuation and other assessment-related issues; minutes of NAC meetings, advisories, alerts, circulars/Public Notices; Zone-wise CCFC and PTFC information; and other assessment and trade-facilitation related references. The Circular further provides that NACs are to regularly update the Portal, particularly in relation to classification, valuation and other assessment-related matters, and that information concerning commodities taken up by stakeholders during CCFC/PTFC for guidance or uniformity in assessment should be updated on a priority basis. The common repository is intended to assist importers, Customs Brokers and other stakeholders in accessing relevant decisions and clarifications, while also assisting Customs officers in taking informed and consistent decisions across formations. Field formations have been directed to give wide publicity to the Circular, and difficulties in implementation or operation of the Portal may be brought to the notice of the Board.

Circular No. 41/2026-Customs, F. No. 450/26/2019-Cus-IV(Pt.), Central Board of Indirect Taxes and Customs (CBIC)



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Quick Bites

THE NAC PORTAL: YOUR NEW CUSTOMS REFERENCE POINT

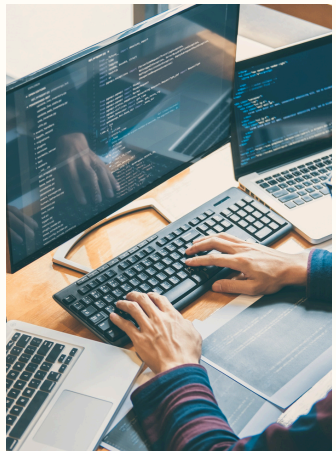


The CBIC has introduced the National Assessment Centre (NAC) Portal to provide a common digital repository for Customs assessment decisions, legal precedents, CAAR rulings, advisories and audit observations—promoting greater transparency, uniformity and predictability.

NAC Portal for Transparent & Uniform Customs Assessment — Circular No. 41/2026-Customs, F. No. 450/26/2019-Cus-IV(Pt.), CBIC

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Indirect Tax

Warehouse or storage charges waived for period of inordinate delay in deciding appeal under Customs Act: Delhi High Court

The importer filed a writ petition seeking directions to restrain the department from demanding or collecting warehouse/storage charges, or to waive such charges, for the period beyond the statutory period prescribed for deciding an appeal under Section 128 read with Section 128A of the Customs Act, 1962, as well as the execution of Order-in-Appeal No. CC (A) CUS/DI/AIRPORT/1089/2025-26 dated 26.09.2025 to release the detained imported goods. The department submitted that it had no objection to implementing the Order-in-Appeal dated 26.09.2025 as no further appeal or revision had been preferred against it and the order had attained finality. Upon perusal of the record, the High Court observed that the Order-in-Appeal was passed after a period of nearly four years from the date of filing of the appeal. The Court held that the importer cannot be burdened with warehouse/storage charges attributable to such prolonged pendency, and accordingly ordered that the warehouse/storage charges, if any, payable for the said period shall stand waived. Consequently, the High Court directed the department to release the goods strictly in terms of the Order-in-Appeal dated 26.09.2025 within a period of one month from the date the importer submits an appropriate application seeking release along with a copy of the Court's order.

Ram Kumawat v. Commissioner of Customs, W.P.(C) No. 3244 of 2026, High Court of Delhi



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The Delhi High Court held that an importer cannot be burdened with warehouse or storage charges arising from the prolonged pendency of a Customs appeal. As the appeal remained undecided for nearly four years, the Court directed that charges attributable to this period be waived. The Department was also directed to release the detained goods in accordance with the final Order-in-Appeal.

CASE TITLE: Ram Kumawat v. Commissioner of Customs, W.P.(C) No. 3244 of 2026, High Court of Delhi

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Intellectual Property Right

Bombay High Court Directs Forcible Possession of Defendant's Premises After Obstruction of Court Receiver

The Bombay High Court directed the Court Receiver to take forcible physical possession of the defendant's factory premises in Ghaziabad after the Additional Special Receiver was allegedly obstructed from executing the Court's earlier order. During the execution, impugned products bearing "ULTIMATE", "ULTIMATE INTERIOR EMULSION", "ULTIMATE ACRYLIC DISTEMPER" and "AFEX" were found at the premises. The Court noted that the defendant's brother along with approximately ten persons, prevented the Receiver from completing the seizure despite being shown the Court's order. The Receiver's report also recorded attempts to have the quantity of infringing material understated and refusal to cooperate with the execution. Holding that the conduct prima facie interfered with the administration of justice, the Court directed the Receiver to take possession of the entire premises, including by breaking open locks, with police assistance. The Court also found a prima facie case for issuing a contempt notice against Amit Panwar and his associates, but afforded him an opportunity to file his reply before proceeding further.

Asian Paints Limited v. Deepak Kumar Panwar,
Commercial IP Suit (L) No. 25682 of 2026



Anushka Tripathi



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**WHEN A COURT ORDER IS OBSTRUCTED,
CONSEQUENCES FOLLOW**

The Bombay High Court directed the Court Receiver to take forcible physical possession of the defendant's factory premises after the Receiver was allegedly obstructed during execution of the Court's order. Infringing products bearing marks including "ULTIMATE" and "AFEX" were found at the premises. The Court also found a prima facie case of interference with the administration of justice and contemplated contempt proceedings against those who obstructed the Receiver.

Case Title: Asian Paints Limited v. Deepak Kumar Panwar, Commercial IP Suit (L) No. 25682 of 2026

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Intellectual Property Right

Delhi High Court Restrains Kwick Living's "War on What's Hidden" Campaign Against HUL

The Delhi High Court has restrained Kwick Living (I) Pvt. Ltd. from continuing its "War on What's Hidden" advertising campaign targeting HUL's VIM and SURF EXCEL products. HUL alleged that the campaign falsely conveyed that the presence of LAS and BIT in its products could cause skin irritation, allergies, redness, itching and eczema, while simultaneously promoting Kwick Living's BECO products.

The Court held that the campaign had to be assessed holistically from the perspective of the average consumer, rather than by examining individual statements in isolation. Although LAS and BIT may, in isolation, have the capability to cause skin irritation, the manner in which the campaign juxtaposed the ingredients with HUL's products conveyed the overall message that using HUL's products would cause skin irritation and related harm. The "Switch to BECO" messaging further revealed the defendant's commercial motive.

The Court drew an important distinction between permissible comparative advertising and disparagement. Comparative advertising is permissible even if it places a competitor's product in a poor light, but it cannot be based on statements that are untruthful, misleading, deceptive or misrepresent the overall state of affairs. The Court found that the present campaign prima facie crossed these permissible contours. Consequently, the Court found that HUL had established a prima facie case, that the balance of convenience lay in its favour, and that continued circulation of the campaign would cause irreparable harm. Kwick Living was directed to pull down, remove and recall all advertisements containing the offending statements within one week, followed by an affidavit of compliance. The restraint is limited to the impugned campaign and does not prevent Kwick Living from undertaking otherwise lawful comparative advertising.

Hindustan Unilever Limited v. Kwick Living (I) Private Limited, CS(COMM) 904/2026



Anushka Tripathi

VIM & SURF EXCEL VS. BECO: When Comparison Crosses the Line



The Delhi High Court restrained Kwick Living from continuing its "War on What's Hidden" campaign targeting HUL's VIM and SURF EXCEL products. The Court held that comparative advertising must be assessed from the average consumer's perspective and as a whole. While certain ingredient-related statements may be factually true in isolation, their overall presentation conveyed a misleading impression of harm and crossed into disparagement. The Court directed removal and recall of the impugned advertisements.

Case Title: Hindustan Unilever Limited v. Kwick Living (I) Private Limited, CS(COMM) 904/2026, Delhi High Court

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Intellectual Property Right

Bombay High Court Rejects Metro Brands' Attempt to Combine Infringement and Passing Off Claims

The Bombay High Court dismissed Metro Brands Ltd.'s petition seeking leave under Clause 14 of the Letters Patent to join its passing off claim with its trademark infringement claim against Met Brands Pvt. Ltd. The defendant was based in Kerala, where the alleged passing off had occurred, while Metro Brands relied on its registered office in Mumbai. The Court held that while Section 134(2) of the Trade Marks Act permits a trademark infringement suit where the plaintiff carries on business, a passing off claim remains governed by Section 20 CPC. Since neither the defendant nor the passing off cause of action was in Mumbai, the Court declined jurisdiction over that claim. As both claims could be pursued in Kerala, the Court found no multiplicity of proceedings to avoid and held that the balance of convenience favoured Kerala. The petition was accordingly dismissed, with Metro Brands at liberty to take appropriate steps in accordance with law.

Metro Brands Limited v. Met Brands Private Limited, Commercial IPR Suit (L) No. 12028 of 2025



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WHEN TWO IPR CLAIMS CANNOT SHARE ONE COURT



The Bombay High Court held that a plaintiff cannot automatically combine a trademark infringement claim with a passing off claim to invoke jurisdiction in Mumbai. While Section 134(2) of the Trade Marks Act permits an infringement action where the plaintiff carries on business, a passing off claim remains governed by Section 20 CPC. As neither the defendant nor the cause of action for passing off arose in Mumbai, the Court held that the claims could be pursued in Kerala.

CASE TITLE: Metro Brands Limited v. Met Brands Private Limited, Commercial IPR Suit (L) No. 12028 of 2025

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Intellectual Property Right

Madras High Court Refers Copyright Dispute to Arbitration, Dismisses Injunction Application

The Madras High Court referred a copyright dispute between Eros Technologies Digital FZE and Ayngaran International Media Pvt. Ltd. & Ors. to arbitration under Section 45 of the Arbitration and Conciliation Act, 1996. Eros claimed rights over certain cinematograph films through successive assignments and alleged that the defendants were exploiting the assigned rights on social media platforms. The defendants relied on the Deed of Assignment, which contained an arbitration agreement. The Court held that the arbitration clause could bind the parties despite the successive assignment, noting that there was no prima facie evidence that the agreement was null, void, inoperative or incapable of being performed. It also held that the copyright dispute could be resolved through arbitration. Accordingly, the Court allowed the Section 45 application, dismissed Eros' injunction application, and directed the Registry to strike off and return the plaint. There was no order as to costs.

Eros Technologies Digital FZE v. Ayngaran International Media Private Limited & Ors., O.A. No. 454 of 2026 and A. No. 2680 of 2026 in C.S. (Comm.Div.) No. 140 of 2026



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Quick Bites

**THE RIGHTS CHANGED HANDS.
THE ARBITRATION CLAUSE SURVIVED.**



The Madras High Court held that a copyright dispute can be referred to arbitration where the underlying Deed of Assignment contains a valid arbitration agreement. Despite successive assignments of the copyright, the Court found no prima facie ground to treat the arbitration clause as null, void or inoperative. The Court accordingly allowed the Section 45 application, dismissed the injunction plea and directed the plaint to be returned.

Case Title: Eros Technologies Digital FZE v. Ayngaran International Media Private Limited & Ors., O.A. No. 454 of 2026 & A. No. 2680 of 2026 in C.S. (Comm.Div.) No. 140 of 2026.

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Litigation

Outgoing Partner's Share to Be Valued at Date of Assessment, Not Dissolution

The Supreme Court held that in a partnership at will, an outgoing partner's share in the partnership assets is not necessarily frozen at the date of dissolution. While profits/losses are to be calculated up to the date of dissolution, the partner's entitlement to the residue/value of the partnership assets continues until the final decree.

Accordingly, where the partnership assets - particularly immovable property - have appreciated after dissolution, the outgoing partner is entitled to his proportionate share based on the value assessed when the property is actually valued, rather than the value prevailing on the date of dissolution. The Court considered this approach pragmatic and equitable, noting that valuing the property at the 1983 value would seriously prejudice the outgoing partner.

V. Sumitra Reddy & Anr. v. K. Ranganadha Reddy & Ors. 2026 INSC 979



Meiyank Pandey



Quick Bites

Dissolution Does Not Freeze Asset Value



The Supreme Court held that an outgoing partner's share is not necessarily frozen at the date of dissolution. In this case, valuing the partnership property at its 1983 value would have seriously prejudiced the outgoing partner. The Court held that subsequent appreciation must be considered, with the partner's entitlement determined based on the value assessed when the property is actually valued.

Case Title: V. Sumitra Reddy & Anr. v. K. Ranganadha Reddy & Ors., 2026 INSC 979

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6 MONTHS ISN'T THE FINISH LINE: RBI'S POWER CAN CONTINUE UP TO 5 YEARS



The Supreme Court held that RBI's power to supersede the Board of a multi-State co-operative bank under Section 36AAA of the Banking Regulation Act can continue beyond the six-month limit under Article 243ZL, subject to the overall five-year statutory limit. The Court also clarified that the supersession may continue beyond the elected Board's original tenure and that State Government consultation is not required for multi-State co-operative banks.

CASE TITLE: Sandeep S. Ghandat & Ors. v. Reserve Bank of India & Ors., 2026 INSC 955

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Banking RBI Can Supersede Board of Multi-State Co-operative Bank Beyond Six Months

The Supreme Court held that RBI's power under Section 36AAA of the Banking Regulation Act, 1949 to supersede the Board of a multi-State co-operative bank is not restricted by the six-month limit under Article 243ZL(1) of the Constitution. The third proviso to Article 243ZL makes the BR Act applicable to multi-State co-operative banks, and Section 36AAA permits supersession up to five years in aggregate, with extensions from time to time.

The Court also held that supersession can continue even beyond the original tenure of the elected Board. Once the Board is superseded, its powers vest in the Administrator, and the expiry of the Board's original term does not affect RBI's continuing power, provided the overall five-year statutory limit is respected.

Importantly, consultation with the State Government is not required for a multi-State co-operative bank. The proviso to Section 36AAA(1) requiring consultation applies only to co-operative banks registered with the Registrar of Co-operative Societies of a State, not multi-State co-operative banks.

Sandeep S. Ghandat & Ors. v. Reserve Bank of India & Ors. 2026 INSC 955



Meiyank Pandey

Litigation

Attorney General: Law Must Move From “Catching Up” to Driving Economic Growth

Attorney General of India R. Venkataramani has called for a fundamental shift in India's commercial legal framework - from merely responding to economic developments after they occur to actively shaping the conditions for sustainable economic growth. Speaking at the ETLegalWorld Commercial Disputes Conclave 2026, he argued that incremental legal reforms are no longer sufficient for an economy experiencing rapid growth, cross-border transactions and technological change.

A key point was that justice delivery is now an economic issue, not merely a legal one. Delays in dispute resolution affect investment returns, commercial certainty and the functioning of an open economy. He therefore suggested reconsidering the traditional distinction between “mainstream” litigation and “alternative” dispute resolution, with arbitration and mediation being treated as equally important mainstream mechanisms for resolving commercial disputes.

On investment, Venkataramani stressed that protection of investors cannot come at the expense of liability, non-discrimination and fairness. He also noted that modern investment extends beyond financial capital to intellectual resources, human capital, education and management, requiring commercial law to respond to these broader economic realities.

Importantly, he suggested that India may need to consider a new contract code and procedural framework, supported by substantive commercial principles that better align commercial activity with wider economic and social objectives. The broader message was that commercial law should not simply solve disputes; it should help build trust, speed and certainty into India's business ecosystem.

<https://legal.economictimes.indiatimes.com/news/industry/indias-next-services-story-must-export-legal-expertise-and-institutional-credibility-lalit-bhasin/134047701>



Meyank Pandey



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Quick Bites

LAW SHOULD DRIVE THE ECONOMY. NOT CHASE IT.

Attorney General R. Venkataramani has called for India's commercial legal framework to move from reactive reform to proactive growth. He emphasised that faster dispute resolution is essential for investment, certainty and economic confidence, while arbitration and mediation should be treated as mainstream mechanisms. He also highlighted the need to explore a new contract code and procedural framework aligned with India's evolving economic and technological landscape.

Case Title: R. Venkataramani, Attorney General for India – Inaugural Address, ETLegalWorld Commercial Disputes Conclave 2026, “Commercial Dispute Resolution as a Strategic Driver of Economic Growth” (11 September 2026).

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Litigation

Bank Liable for Unreasonable Delay in Releasing Deceased Depositor's Funds to Elderly Legal Heir

The District Consumer Disputes Redressal Commission, Ernakulam has held that a bank can be liable for deficiency in service where it unnecessarily delays settlement of a deceased depositor's account, particularly where the claimant is an elderly legal heir and the bank fails to clearly communicate or substantiate the procedural requirements. The Commission clarified that while a bank is entitled to conduct prudent verification, such verification cannot become an opaque or unnecessarily burdensome process.

In the present case, the complainant, an elderly husband, sought release of approximately ₹62,000 lying in his deceased wife's savings account. The nominee, their son, had also died. Although the bank was justified in verifying his entitlement, the Commission found that the bank failed to establish its defence that the complainant had initially submitted an unsigned application. The bank produced neither the alleged application nor any acknowledgement, inward record or contemporaneous communication showing that the alleged defect had been pointed out to him.

The Commission further emphasised the RBI's customer-friendly approach to deceased-depositor claims, including simplified procedures and hassle-free settlement. It held that banks must clearly identify deficiencies, provide the necessary forms/checklists and assist claimants in completing the process. This obligation assumes greater importance where the claimant is elderly or unable to understand English; procedural requirements should be explained in a language understood by the claimant.

Importantly, the Commission held that release of the principal amount eventually does not absolve a bank of liability for the inconvenience, hardship or mental agony caused by negligent handling and repeated follow-ups. It therefore awarded ₹10,000 compensation and ₹5,000 litigation costs, and directed the bank to ensure that deceased-depositor claim forms, checklists and procedural requirements are clearly explained in the concerned regional language.

Govindan v. Manager, Bank of India, Kuruppampady Branch & Anr. CC No. 867 of 2023



Mayank Pandey



Quick Bites

DELAYING A DECEASED DEPOSITOR'S FUNDS HAS A COST.



The Ernakulam Consumer Commission held that delayed release of a deceased depositor's funds can amount to deficiency in banking service. The bank's eventual payment did not erase the inconvenience and mental agony caused to the elderly claimant. The Commission awarded ₹10,000 compensation along with ₹5,000 litigation costs.

Case Title: Govindan v. Manager, Bank of India, Kuruppampady Branch & Anr., CC No. 867 of 2023, District Consumer Disputes Redressal Commission, Ernakulam.

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Litigation

Stamp Duty / Section 47-A SC Refers to Larger Bench: Fraudulent Intent Necessary for Invoking Section 47-A

The Supreme Court in *Bharat Petroleum Corporation Ltd. v. District Revenue Officer (Stamps)* has seriously doubted the correctness of *V.N. Devadoss v. Chief Revenue Control Officer*, which held that Section 47-A of the Indian Stamp Act could be invoked only where there was wilful undervaluation with fraudulent intention to evade stamp duty.

The Court noted that Section 47-A itself does not expressly require fraudulent intent. Its statutory trigger is simply that the registering authority has "reason to believe" that the market value or consideration has not been truly set forth in the instrument. Reading an additional requirement of fraudulent intent into the provision may therefore amount to judicially adding a condition that Parliament did not include.

The Court illustrated the problem with two scenarios. In an honest undervaluation, such as where an encumbered property genuinely has a market value below the circle rate, requiring proof of fraud would unfairly turn a valuation dispute into a quasi-criminal enquiry. Conversely, in a fraudulent cash transaction, requiring the authority to first possess evidence of fraudulent intent could prevent it from even initiating an enquiry, defeating the purpose of Section 47-A to protect revenue.

However, the two-judge Bench could not overrule *V.N. Devadoss* because it was a three-judge Bench decision. It therefore referred the issue to a larger Bench to determine whether Section 47-A can be invoked irrespective of the parties' culpable mindset, purely to determine the true market value of the property.

Case: *Bharat Petroleum Corporation Limited v. District Revenue Officer (Stamps) & Anr.* 2026 INSC 963



Mayank Pandey



Litigation

**Ritu Goel & Anr. v. Kamlesh & Ors.,
RFA(COMM) 248/2026**

The Delhi High Court dismissed an appeal against an ex parte decree for Rs. 1.22 crores, holding that a party cannot challenge an ex parte decree on the ground of non-service when the record clearly establishes service and appearance through counsel. Both appellants had executed vakalatnamas in favour of advocates, and the trial court record further showed that the complete paper book had been supplied to their counsel. Their plea of non-service was therefore found to be false.

On merits, the Court found that the plaintiffs' case had remained completely un rebutted. The appellants had neither filed a written statement nor cross-examined the plaintiffs' witness or disputed the documents. The issuance and subsequent dishonour of post-dated cheques, coupled with other documents evidencing receipt of money, established the defendants' liability. The Court also rejected the contention that alleged cash payments, potentially attracting consequences under Section 269ST of the Income Tax Act, could defeat the civil claim. Any violation of tax law may invite action by the concerned authorities but does not extinguish an otherwise established civil liability, particularly where receipt of the amount is acknowledged and reaffirmed through issuance of cheques.

The Court also rejected the appellant's subsequent attempt to withdraw the appeal with liberty to pursue proceedings under Order IX Rule 13 CPC. Though a defendant may avail remedies against an ex parte decree, withdrawal with liberty is discretionary and cannot be permitted to defeat an adjudication or enable a party to reopen litigation after the appeal has been fully argued and reserved for judgment. Relying on Arthanareswarar Temple and K.S. Bhoopathy, the Court held that such liberty must be exercised cautiously, particularly at the appellate stage. The application was found to be a mala fide attempt to set aside an adverse decree and was dismissed with costs.

Law: A plea of non-service cannot be sustained where the record establishes appearance through duly authorised counsel. Further, un rebutted evidence and acknowledged liability can sustain an ex parte decree, and alleged violations of tax law do not by themselves defeat an established civil claim. Withdrawal of an appeal with liberty to reopen the matter is discretionary and cannot be used to nullify an adjudication already reached on merits.



Hardik Jain

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**NO WRITTEN STATEMENT. NO CROSS-EXAMINATION.
DECREE UPHELD.**



The Delhi High Court upheld the ₹1.22 crore ex parte decree, holding that a plea of non-service cannot succeed where the record establishes appearance through authorised counsel and supply of the paper book. The Court also held that un rebutted evidence and acknowledged liability can sustain a decree, while alleged tax-law violations do not extinguish an otherwise established civil claim. It further rejected an attempt to withdraw the appeal with liberty to reopen the matter after arguments had concluded.

CASE TITLE: Ritu Goel & Anr. v. Kamlesh & Ors., RFA(COMM) 248/2026, Delhi High Court, 10 September 2026.

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Litigation

Union of India v. NCC Limited, O.M.P. (COMM) 292/2019

The Delhi High Court partly allowed UIO's challenge under Section 34 to an arbitral award arising from a construction contract, primarily considering the scope of natural justice, procedural autonomy of the arbitral tribunal, and the effect of an express contractual bar on compensation for delay. The Court rejected UIO's contention that it had been denied a fair opportunity to present its case, holding that refusal of an adjournment does not by itself constitute a violation of natural justice. A party must demonstrate a real denial of opportunity and actual prejudice. Since UIO had been given multiple opportunities to make submissions, was represented at hearings and failed to identify any specific evidence or witness which it was prevented from presenting, no violation of Section 34(2)(a)(iii) was established.

The Court further held that, in the absence of an agreed procedure, Section 19 confers autonomy upon the arbitral tribunal to determine the manner of conducting proceedings, including whether oral evidence is necessary. Where documents are undisputed and the dispute concerns their interpretation, the tribunal may proceed on documentary evidence and written submissions without requiring witnesses.

However, the Court set aside the award under Claims 7 and 9 as patently illegal. Clause 13 of the GCC expressly barred claims for compensation arising from extensions of time, and the Supreme Court's interpretation of a *pari materia* clause in Ramnath International was binding. The Arbitrator could not award compensation contrary to this express contractual prohibition.

Law: While Section 34 does not permit interference with a plausible arbitral interpretation, an award is patently illegal where the Arbitrator ignores an express contractual bar or binding precedent. Procedural autonomy also permits the Tribunal to dispense with oral evidence unless real prejudice is demonstrated.



Hardik Jain



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THE CONTRACT DREW THE LINE. THE ARBITRATOR COULDN'T CROSS IT.



The Delhi High Court held that an arbitral tribunal cannot award compensation where the contract expressly bars such claims. While refusal of an adjournment did not violate natural justice and tribunals retain procedural autonomy, Claims 7 and 9 were set aside as patently illegal for ignoring the contractual bar and binding precedent.

Case Title: Union of India v. NCC Limited, O.M.P. (COMM) 292/2019, Delhi High Court, 9 September 2026.

Delhi | Bengaluru

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Litigation

Eco Green Buildtech Pvt. Ltd. v. Vikartan Infrastructure Pvt. Ltd., O.M.P. (COMM) 293/2023

The Delhi High Court set aside the arbitral award and additional award, holding that an arbitral tribunal cannot rely upon statements, admissions or proceedings recorded during unsuccessful conciliation while adjudicating the dispute. Conciliation and arbitration are distinct processes, and the confidentiality attaching to settlement discussions continues even after settlement efforts fail. Relying on *Moti Ram v. Ashok Kumar and Perry Kansagra v. Smriti Madan Kansagra*, the Court held that statements made during conciliation cannot subsequently be used against a party in arbitral proceedings, as doing so would undermine the confidence essential to the settlement process.

The Court further held that an arbitrator's expertise or personal experience cannot substitute the claimant's burden of proving actual loss or damage. While breach of contract may be established, damages under Section 73 of the Contract Act require proof of consequential loss. Accordingly, claims towards idling of machinery and additional overheads could not be quantified merely on the basis of the arbitrator's personal experience, unproven trade practice or material not disclosed to the parties.

Similarly, applying *Unibros v. All India Radio*, the Court held that the Hudson formula is merely a tool for quantification and cannot, by itself, establish loss of profit or profitability. The claimant must independently establish the occurrence of delay, demonstrate that such delay was not attributable to it, and produce credible evidence substantiating the alleged loss.

Law: An arbitral award is patently illegal where the Tribunal relies on confidential conciliation proceedings or quantifies damages solely on personal expertise, guesswork or unproven trade practice without evidence of actual loss. Formulae such as the Hudson formula may assist in quantification but cannot dispense with proof of damages.



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**A FORMULA CAN QUANTIFY LOSS. IT CANNOT
CREATE ONE.**



The Delhi High Court set aside the arbitral award, holding that damages cannot rest on an arbitrator's personal expertise, guesswork or unproven trade practice. The Court also held that confidential conciliation statements cannot be relied upon in arbitration. The Hudson formula may quantify loss, but cannot substitute proof of actual loss.

Case Title: Eco Green Buildtech Pvt. Ltd. v. Vikartan Infrastructure Pvt. Ltd., O.M.P. (COMM) 293/2023, Delhi High Court.

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Litigation

Ultratech Cement Ltd. v. Competition Commission of India & Anr., LPA 8/2024

The Delhi High Court dismissed Ultratech Cement's appeal challenging the Competition Commission of India's ("CCI") decision permitting the Builders' Association of India ("BAI") to participate in a suo motu inquiry concerning alleged cartelisation by cement manufacturers. The Court held that under Regulation 25(1) of the CCI (General) Regulations, 2009, the CCI may permit a person or enterprise to participate where it has a substantial interest in the outcome and its participation is necessary in public interest. BAI, being an all-India association of builders and a major consumer of cement, had a clear and substantial interest in the proceedings. The CCI's order was therefore not non-speaking, as it recorded its satisfaction regarding BAI's interest and the necessity of its participation for a meaningful inquiry.

The Court further rejected the contention that permitting BAI to participate amounted to an impermissible review of the earlier order rejecting its impleadment. The two applications arose at different stages: the earlier application was made during the DG's investigation, whereas the subsequent application was filed after completion of the investigation and submission of the DG Report, pursuant to liberty granted by the High Court. The subsequent order was therefore based on changed circumstances and did not constitute a review.

The Court also held that no violation of natural justice was established. Ultratech had knowledge that BAI had been provided the non-confidential DG Report and permitted to submit its opinion. More fundamentally, competition proceedings are proceedings in rem aimed at protecting competition and larger public interest. Impleadment does not determine the rights or liabilities of parties but assists the CCI in reaching an informed conclusion.

Law: In competition proceedings, a person having substantial interest may be permitted to participate under Regulation 25 where such participation furthers public interest and assists the CCI. Such participation does not amount to adjudication of rights, and principles of natural justice must be assessed in light of the nature and purpose of proceedings.



Hardik Jain



Quick Bites

Competition Inquiries Need More Than the Competitors' View.



The Delhi High Court upheld the CCI's decision allowing the Builders' Association of India to participate in the suo motu cartelisation inquiry. As a major cement consumer, BAI had a substantial interest, and its participation served the public interest. The Court clarified that such participation does not determine rights or liability and does not violate natural justice.

CASE TITLE: Ultratech Cement Ltd. v. Competition Commission of India & Anr., LPA 8/2024, Delhi High Court.

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Litigation

State Bank of Patiala v. Anil Kumar, W.P.(C) 6756/2007

The Delhi High Court partly allowed the Bank's writ petition challenging the CGIT award which had held the workman's termination illegal and directed reinstatement with 10% back wages. The Court reiterated that, in exercise of jurisdiction under Articles 226 and 227, the High Court does not sit as an appellate court over findings of the Labour Court and cannot re-appreciate evidence merely because another view is possible. Interference is warranted only where findings are perverse, based on no evidence or such that no reasonable person could have reached them.

On the merits, the Court upheld the CGIT's finding regarding the existence of an employer-employee relationship and completion of 240 days of service. The workman had produced contemporaneous documents, including an identity card, certificates, curfew pass and payment vouchers. Once the Bank admitted that the workman had worked at its premises but claimed that he was engaged through an agency, the burden shifted upon the Bank to substantiate that defence. Its failure to produce cogent evidence justified the finding in favour of the workman. The Court also held that the dismissal of an earlier civil suit did not operate as res judicata, since the industrial dispute was required to be adjudicated by the appropriate industrial forum.

However, the Court modified the relief. Relying on Jagbir Singh, Bhurumal and other precedents, it held that reinstatement with back wages does not automatically follow upon a finding of violation of Section 25F, particularly in the case of a daily-wage worker. Considering the short duration of service, passage of over 33 years and payments already made under Section 17B, reinstatement was substituted with lump-sum compensation of Rs.3 lakhs.

Law: Illegal termination does not automatically entitle a daily-wage worker to reinstatement and back wages; relief must be moulded according to the facts, and monetary compensation may be more appropriate.



Hardik Jain



Quick Bites

**TERMINATION WAS ILLEGAL.
REINSTATEMENT WASN'T AUTOMATIC.**

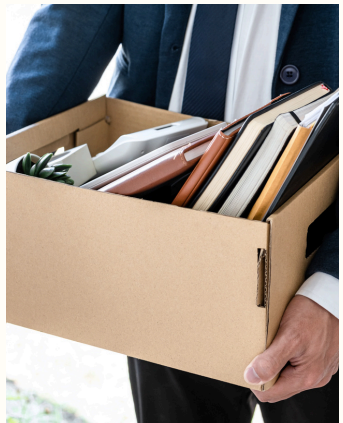


The Delhi High Court held that illegal termination does not automatically warrant reinstatement with back wages, particularly for a daily-wage worker. While the workman established an employer-employee relationship and 240 days of service, the Court considered the short tenure, 33-year delay and payments already made under Section 17B, and substituted reinstatement with ₹3 lakh lump-sum compensation.

CASE TITLE: State Bank of Patiala v. Anil Kumar, W.P.(C) 6756/2007, Delhi High Court.

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Corporate

Supreme Court: Companies Can Face Criminal Prosecution Without Naming Individual Officers

The Supreme Court, on September 7, 2026, held that a company may be criminally prosecuted for an offence involving mens rea even when the individual officer or employee through whom the offence was allegedly committed has not been identified or arraigned as an accused. The Bench of Justice J.B. Pardiwala and Justice Manoj Misra held that such non-identification, by itself, is not a ground to quash proceedings against a corporation under Section 482 CrPC. At the threshold stage, allegations must prima facie indicate that a natural person acted on behalf of the company, the act relates to the alleged offence, and the surrounding circumstances do not make the existence of mens rea inherently improbable. The individual's identity and precise role may emerge during investigation or trial. The Court also laid down a three-stage framework for attributing an individual's conduct and mens rea to a corporation. First, the court must examine the company's constitutional documents and determine whether relevant authority was vested in the person. Second, if necessary, it must consider whether such authority was expressly or impliedly delegated with sufficient discretion and independence. Mere employment, participation in negotiations, or seniority is insufficient. Third, where neither applies, the court may consider whether the purpose of the statute requires a special rule of attribution. The framework does not apply where the statute itself provides attribution or creates vicarious, strict or absolute liability. The case, *Sanofi India Ltd. v. Central Bureau of Investigation*, arose from alleged irregularities in BARC's procurement of pharmaceutical products. The Supreme Court found sufficient prima facie material linking natural persons to Sanofi's transactions and dismissed the appeal against the refusal to quash proceedings.



Rishav Sagar



No Individual Named. Can the Company Still Face Prosecution?



The Supreme Court held that a company can face criminal prosecution for an offence involving mens rea even if the individual officer or employee allegedly responsible has not been identified or arraigned. At the threshold stage, the allegations must prima facie show that a natural person acted on behalf of the company and that the existence of mens rea is not inherently improbable. The Court also laid down a three-stage framework of attribution based on authority, delegation and statutory purpose.

CASE TITLE: *Sanofi India Ltd. v. Central Bureau of Investigation*, 2026 INSC 957

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Corporate

Release of Buyback Escrow Does Not Bar Separate Fraud Inquiry: Supreme Court

The Supreme Court, on September 9, 2026, held that the release of cash escrow under Regulation 15B(8) of the SEBI (Buyback of Securities) Regulations, 1998, does not bar an independent inquiry into fraud under the PFUTP Regulations, 2003. The Bench of Justice J.B. Pardiwala and Justice K.V. Viswanathan remanded the matter to the Securities Appellate Tribunal (SAT) for fresh adjudication on the issue of fraud. The case concerned Vedanta Limited, formerly Cairn India Limited, which had announced a buyback of 17.09 crore shares at ₹335 per share in 2014 but ultimately bought back only 21.48% of the targeted shares. SEBI released the 2.5% escrow in 2016 after finding the conditions for exemption from forfeiture satisfied, but separately investigated allegations that the buyback announcement was misleading and made without genuine intention to complete it. The Adjudicating Officer subsequently imposed a ₹5.25 crore penalty on Vedanta and ₹15 lakh each on three individuals, which SAT set aside. The Supreme Court clarified that Regulation 15B(8) deals only with forfeiture or release of escrow and does not determine whether fraud occurred. Treating escrow release as immunity from PFUTP proceedings would have no statutory basis. Departmental file notings suggesting otherwise were also held to have no binding legal effect. The Court further held that fraud must be established on a preponderance of probabilities based on the totality of circumstances, and cannot rest on mere allegations or conjecture. Since disputed NSE/BSE trading data and inconsistencies in SEBI's reports had not been properly examined, the matter was remanded to SAT. SAT was directed to examine the trading data, summon relevant persons and documents under Section 15U of the SEBI Act, consider corroborating circumstances, and complete the exercise within six months.

Case: Securities and Exchange Board of India v. Vedanta Limited & Ors.



Rishav Sagar



Quick Bites

ESCROW RELEASE DOES NOT MEAN FRAUD IMMUNITY



The Supreme Court clarified that release of buyback escrow does not grant immunity from a separate fraud inquiry under the PFUTP Regulations. While Regulation 15B(8) governs the forfeiture or release of escrow, it does not determine whether the underlying buyback announcement involved fraud. The Court further held that fraud must be established on a preponderance of probabilities, based on the totality of circumstances, and remanded the matter to SAT for fresh examination of the disputed trading data and other relevant evidence.

CASE TITLE: Securities and Exchange Board of India v. Vedanta Limited & Ors., Supreme Court, 9 September 2026

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Corporate

F&O Investors Cannot Recover Trading Losses from Professional Clearing Members: Supreme Court

The Supreme Court, on September 2, 2026, held that investors in the Futures and Options (F&O) segment cannot seek reimbursement of losses from Professional Clearing Members (PCMs), whose role is limited to facilitating clearing and settlement. A Bench of Justice J.B. Pardiwala and Justice K. Vinod Chandran observed that investors have a contractual relationship with Trading Members (TMs), who execute trades, while TMs furnish collateral to PCMs for their own obligations. The Court held that, in the absence of privity of contract or a statutory obligation, PCMs cannot be made liable for losses arising from a TM's default. The dispute arose after certain TMs allegedly operated unauthorised portfolio-management schemes promising assured returns and furnished their clients' securities as collateral to PCMs. Following the TMs' default, the PCMs liquidated the securities to meet their outstanding obligations. Investors alleged that the PCMs should have verified individual clients' debit or credit balances before liquidation. The NSE's Member and Core Settlement Guarantee Fund Committee directed restitution of securities worth approximately ₹460 crore, which was upheld by the Securities Appellate Tribunal (SAT). The Supreme Court, however, set aside the restitution orders, holding that the regulatory framework made the TM the PCM's client and the investor the TM's client. Consequently, PCMs had no statutory duty to ascertain individual investors' positions before liquidating collateral. The Court further observed that investors who knowingly participated in schemes promising assured returns in the inherently speculative F&O segment could not shift the resulting losses to PCMs. The appeal was accordingly allowed.

Case: Edelweiss Custodial Services Limited v. NSE Clearing Ltd. & Anr.



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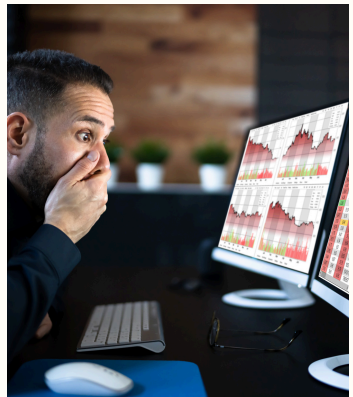


F&O Losses Cannot Automatically Be Shifted to the Clearing Member



The Supreme Court held that Professional Clearing Members (PCMs) cannot be held liable for investors' F&O trading losses arising from a Trading Member's default, in the absence of privity of contract or a statutory duty. The Court clarified that the Trading Member is the investor's contractual counterparty, while the PCM's role is limited to clearing and settlement. Accordingly, PCMs have no obligation to verify individual investors' positions before liquidating collateral furnished by the Trading Member.

Case Title: Edelweiss Custodial Services Limited v. NSE Clearing Ltd. & Anr. — Supreme Court, 2 September 2026



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